



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,504	03/29/2001	Frank Heinrich Bakes	9116-552	5104

27752 7590 03/23/2006

THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
WINTON HILL TECHNICAL CENTER - BOX 161  
6110 CENTER HILL AVENUE  
CINCINNATI, OH 45224

EXAMINER

FISCHETTI, JOSEPH A

ART UNIT	PAPER NUMBER
----------	--------------

3627

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/820,504

**Applicant(s)**

BAKES ET AL.

**Examiner**

Joseph A. Fischetti

**Art Unit**

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 7-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/29/01</u> . | 6) <input type="checkbox"/> Other: _____  |

***Election/Restrictions***

Claims 7-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 3/10/05. Applicant's arguments state that the restriction is traverse based on the "basis that the same general field of search should apply to all or most of the claims. However, the underlying premise for the restriction still is soundly legally founded. The Office has set forth the reasons for separate and distinctness in the restriction and thus has met its burden. Finally, Applicant should appreciate that these are business method claims and are subject to increased burden of examination by virtue of their being in class 705. For example, upon allowance of the case, each independent claim must have a separate reasons for allowance drafted for it against the best US, foreign and NPL art in the record.

The restriction is hereby made final.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-6 are rejected under 35 U.S.C. 101 because they fail to recite a useful concrete and tangible result other than abstractly reciting that the result uses the

irregularity to address inventory issues, which could be merely talking to someone about it which is not concrete and tangible.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Starr et al in view of Kagmi et al '496. Starr et al. disclose a method for improving product inventory levels comprising: obtaining inventory data related to product inventory for each of a plurality of products (col. 5 line 45 " each product is associated with a selected resource); calculating a statistical measure for each product from the inventory data for that product (underlying data behind the units vs. source hour measure); displaying the statistical measures for the products in an ordered arrangement according to priority; selecting a product to investigate based upon the ordered arrangement (clicking on the bar 86 causes further investigation of the selected product). However, investigational information in Starr et al. is displayed at box 94, but is not in chart form nor is it a chart illustrating historical performance. However, Kagmi et al. disclose Fig. 5 selecting a selected class of goods col. 5 lines 60 and generating a chart of the past year's historical performance which answers the limitation of displaying a chart from the

Art Unit: 3627

inventory data for the selected product, wherein the chart illustrates historical performance relating to the inventory data for the selected product over a period of time. Further, Kagmi et al disclose identifying an irregularity in the historical performance by placing side by side the model for that product and the historical graphic; and uses the irregularity to address inventory issues regarding the selected product e.g. to generate a stock level warning. It would be obvious to modify the box 94 in Starr et al to include the performance chart feature of Kagmi et al. because the motivation being Starr et al is concerned with planning which inherently must include some reference to past performance.

Re claim 2: Official Notice is taken of the old use statistical measures displayed in an ordered arrangement in a Pareto chart (see Wheeler "Understanding Statistical Process Control").

Re claims 3,4,6: Kagmi et al. disclose a relationship chart in Fig. 5 showing sales over a year.

Re claim 5. The chart in Fig. 5 illustrates a standard deviation curve which by definition has at least one of average value, minimum value, maximum value, standard deviation, target deviation, percentage out-of-stock, control state, capability clearance, and target Z.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Application/Control Number: 09/820,504

Page 5

Art Unit: 3627

Any inquiry concerning this communication should be directed to Joseph A.

Fischetti at telephone number 571 272 6780.

  
Joseph A. Fischetti  
Primary Examiner  
Art Unit 3627

JOSEPH A. FISCHETTI  
PRIMARY EXAMINER